

or moving) that results in damages greater than the current reporting threshold to railroad on-track equipment, signals, track, track structures, and roadbed.

Train incident means any event involving the movement of on-track equipment that results in a reportable casualty but does not cause reportable damage above the current threshold established for train accidents.

Work environment means the establishment and other locations where one or more railroad employees are working or present as a condition of their employment. The work environment includes not only physical locations, but also the equipment or materials processed or used by an employee during the course of his or her work, and activities of a railroad employee associated with his or her work, whether on or off the railroad's property.

Work-related means related to an event or exposure occurring within the work environment. An injury or illness is presumed work-related if an event or exposure occurring in the work environment is a discernable cause of the resulting condition or a discernable cause of a significant aggravation to a pre-existing injury or illness. The causal event or exposure need not be peculiarly occupational so long as it occurs at work. For example, a causal event or exposure may be outside the employer's control, such as a lightning strike; involve activities that occur at work but are not directly productive, such as horseplay; or involve activities that are not peculiar to work, such as walking on a level floor, bending down, climbing stairs or sneezing. Such activities, along with other normal body movements, are considered events. So long as the event or exposure occurred at work and is a discernable cause of the injury or illness, the injury or illness is work-related. It does not matter whether there are other or bigger causes as well, or that the activity at work is no different from actions performed outside work. If an injury is within the presumption of work-relatedness, the employer can rebut work-relatedness only by showing that the case falls within an exception listed in § 225.15. In cases where it is not obvious whether a precipitating event or expo-

sure occurred at work or outside work, the employer must evaluate the employee's work duties and environment and decide whether it is more likely than not that an event or exposure at work was at least one of the causes of the injury or the injury or illness.

[61 FR 30968, June 18, 1996, as amended at 61 FR 59371, Nov. 22, 1996; 61 FR 67490, Dec. 23, 1996; 68 FR 10136, Mar. 3, 2003; 75 FR 68903, Nov. 9, 2010; 76 FR 30863, May 27, 2011]

§ 225.6 Consolidated reporting.

A parent corporation may request in writing that FRA treat its commonly controlled railroad carriers, which operate as a single, seamless, integrated United States rail system, as a single railroad carrier for purposes of this part.

(a) The written request must include the following:

(1) A list of the subsidiary railroads controlled by the parent corporation; and

(2) An explanation as to how the subsidiary railroads operate as a single, seamless, integrated United States railroad system.

(b) The request must be sent to the FRA Docket Clerk, Federal Railroad Administration, U.S. Department of Transportation, RCC-10, Mail Stop 10, West Building 3rd Floor, Room W31-109, 1200 New Jersey Avenue, SE., Washington, DC 20590. Each request received shall be acknowledged in writing. The acknowledgment shall contain the docket number assigned to the request and state the date the request was received.

(c) FRA will notify the applicant parent corporation of the agency's decision within 90 days of receipt of the application.

(d) If FRA approves the request, the parent corporation must enter into a written agreement with FRA specifying which subsidiaries are included in its railroad system, agreeing to assume responsibility for compliance with this part for all named subsidiaries making up the system, and consenting to guarantee any monetary penalty assessments or other liabilities owed to the United States government that are incurred by the named subsidiaries for violating Federal accident/incident reporting requirements. Any change in

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the subsidiaries making up the railroad system requires immediate notification to FRA and execution of an amended agreement. Executed agreements will be published in the docket.

[75 FR 68905, Nov. 9, 2010]

§ 225.7 Public examination and use of reports.

(a) Accident/Incident reports made by railroads in compliance with these rules shall be available to the public in the manner prescribed by part 7 of this title. Accident/Incident reports may be inspected at the U.S. Department of Transportation, Federal Railroad Administration, Office of Safety, West Building 3rd Floor, 1200 New Jersey Avenue, SE., Washington, DC 20590. Written requests for a copy of a report should be addressed to the Freedom of Information Act Coordinator, Office of Chief Counsel, Federal Railroad Administration, U.S. Department of Transportation, RCC-10, Mail Stop 10, West Building 3rd Floor, Room W33-437, 1200 New Jersey Avenue, SE., Washington, DC 20590, and be accompanied by the appropriate fee prescribed in part 7 of this title. To facilitate expedited handling, each request should be clearly marked "FOIA Request for Accident/Incident Report." For additional information on submitting a FOIA request to FRA see FRA's Web site at <http://www.fra.dot.gov/us/foia>.

(b) 49 U.S.C. 20903 provides that monthly reports filed by railroads under § 225.11 may not be admitted as evidence or used for any purpose in any action for damages growing out of any matters mentioned in these monthly reports. The Employee Human Factor Attachment, Notice, and Employee Supplement under § 225.12 are part of the reporting railroad's accident report to FRA pursuant to the 49 U.S.C. 20901 and, as such, shall not "be admitted as evidence or used for any purpose in any suit or action for damages growing out of any matter mentioned in said report * * *." 49 U.S.C. 20903.

[39 FR 43224, Dec. 11, 1974, as amended at 51 FR 47019, Dec. 30, 1986; 53 FR 28601, July 28, 1988; 55 FR 37827, Sept. 13, 1990; 55 FR 52487, Dec. 21, 1990; 61 FR 30969, June 18, 1996; 75 FR 68905, Nov. 9, 2010]

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§ 225.9 Telephonic reports of certain accidents/incidents and other events.

(a) *Types of accidents/incidents and other events to be reported*—(1) *Certain deaths or injuries*. Each railroad must report immediately, as prescribed in paragraphs (b) through (d) of this section, whenever it learns of the occurrence of an accident/incident arising from the operation of the railroad, or an event or exposure that may have arisen from the operation of the railroad, that results in the—

(i) Death of a rail passenger or a railroad employee;

(ii) Death of an employee of a contractor to a railroad performing work for the railroad on property owned, leased, or maintained by the contracting railroad; or

(iii) Death or injury of five or more persons.

(2) *Certain train accidents or train incidents*. Each railroad must report immediately, as prescribed in paragraphs (b) through (d) of this section, whenever it learns of the occurrence of any of the following events that arose from the operation of the railroad:

(i) A train accident that results in serious injury to two or more train crewmembers or passengers requiring their admission to a hospital;

(ii) A train accident resulting in evacuation of a passenger train;

(iii) A fatality resulting from a train accident or train incident at a highway-rail grade crossing when death occurs within 24 hours of the accident/incident;

(iv) A train accident resulting in damage (based on a preliminary gross estimate) of \$150,000 or more to railroad and nonrailroad property; or

(v) A train accident resulting in damage of \$25,000 or more to a passenger train, including railroad and nonrailroad property.

(3) *Train accidents on or fouling passenger service main lines*. The dispatching railroad must report immediately, as prescribed in paragraphs (b) through (d) of this section, whenever it learns of the occurrence of any train accident reportable as a rail equipment accident/incident under §§ 225.11 and 225.19(c)—